



The Commonwealth of Massachusetts
The Alcoholic Beverages Control Commission

Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston, MA 02202-0002

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William F. Weld
Governor

Telephone: (617) 727-3040
Fax: (617) 727-1258

Gloria C. Larson
Secretary

Argeo Paul Cellucci
Lieutenant Governor

Edward R. Redd
Chairman

ANNUAL REPORT

Fiscal Year 1992

July 1, 1991-June 30, 1992

State Library of Massachusetts
State House, Boston

Edward R. Redd, Chairman
Stuart P. Krusell, Associate Commissioner
Daniel P. Matthews, Associate Commissioner
Peter J. Connelly, Executive Secretary

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MEMORANDUM

TO: Secretary Gloria C. Larson
FROM: Edward R. Redd
SUBJECT: Annual Report


Herewith delivered is the Alcoholic Beverages Control Commission's Annual Report for the Fiscal Year ending June 30, 1992.



EDWARD R. REDD
Chairman



STUART P. KRUSELL
Associate Commissioner



DANIEL P. MATTHEWS
Associate Commissioner

ABCC DUTIES AND FUNCTIONS

In accordance with the provisions of Massachusetts General Laws, Chapter 6, Section 44, the Alcoholic Beverages Control Commission files herewith the report of its action and of the conduct and condition of traffic in alcoholic beverages in the Commonwealth for the Fiscal Year ending June 30, 1992.

The Alcoholic Beverages Control Commission (hereinafter referred to as the Commission or ABCC) was created in 1933 by M.G.L. C.6, s43. The Commission has the general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages. Further, it supervises the quality, purity and alcoholic content thereof by virtue of M.G.L. C.6, s44. The Commission is comprised of a Chairman and two Associate Commissioners. The present Chairman is Edward R. Redd and the Associate Commissioners are Stuart P. Krusell and Daniel P. Matthews.

The Commission sets policy and standards and advises local Licensing Authorities; the Commission sits as a quasi-judicial body, hearing appeals from local boards, protests and violations of the Liquor Control Act (Chapter 138) and conducts public hearings.

The offices of the Commission are located at 100 Cambridge Street, Boston, on the 22nd floor.

ADMINISTRATIVE SECTION

The ABCC is the sole issuing authority for alcoholic beverage licenses to manufacturers (distillers, wineries, brewers, farmer breweries, farmer wineries, etc.), wholesalers and importers, rectifiers, railroads, airlines, ships and ship chandlers. It is the sole issuing authority of liquor transportation permits for express or trucking companies, ships, railroads, caterers, airlines and liquor retailers. It licenses salespersons employed by manufacturers, wholesalers and importers.

Massachusetts has a two-tiered system for retail liquor licensing. Each city or town which has voted to permit the sale of alcoholic beverages (only 21 of the state's 351 cities and towns are "dry") has its own Licensing Board, Commission or Licensing Authority. These local boards or commissions are the licensing authorities for hotels, restaurants, clubs, wine auctions and package stores within their communities. While the local licensing authorities do the actual issuing, licenses must be approved by the ABCC.

During Fiscal year 1992, the Commission issued approximately 14,000 permits and licenses. In addition, it processed 12,000 renewals and it approved or disapproved approximately 3,000 applications for new licenses or license changes (transfers of license locations or stock, pledges of licenses or stock, changes of managers or officers, etc.) forwarded from the local licensing authorities.

Each of these involves a review for compliance with statutes and regulations, cross checking with the Department of Revenue for compliance with the tax laws of the Commonwealth and contact with licensees, applicants, their agents and attorneys and the Local Licensing Authorities.

A significant function of the agency is responding to numerous telephone and written inquiries from local licensing boards, government agencies, licensees, attorneys, applicants and the general public concerning the status of applications, procedures for obtaining licenses and appealing decisions, state and local laws and regulations, price posting regulations, public policy and matters of a technical and general nature.

EFFICIENCIES IN ADMINISTRATION

Since 1986, the ABCC has automated many of its functions. This has been made possible by a License Tracking System (LTS) which was programmed and installed by the Office of Management Information Services. Parallel with this effort, data on all retail and state licenses was entered into the LTS. Currently there are 10,600 retail licenses and 10,000 state permits in this data base. This system enables the agency to monitor annual renewals of licenses and permits, track the process of applications pending approval, develop statistics and paper flow for management purposes and supply cities and towns with data on local licenses.

The LTS results in time savings to both the state and municipalities and to state licensees. In addition, the accuracy of the information has eliminated much confusion and misinformation as to the location and other matters of concern to the public and attorneys.

These system improvements have assisted the reduced staff to keep abreast of an increasing workload. Continued enhancements of the system and the addition of a computer network system within the agency will help relieve licensees, municipalities and permit holders of many time consuming tasks demanded by the present license process.

INVESTIGATORY SECTION

Part of the ABCC is an investigatory staff, members of which are designated as "Special Assistants to the Commission". They are charged with ensuring that those involved in the alcoholic beverage industry comply with Massachusetts law and ABCC rules and regulations. To ensure compliance, they investigate complaints and make on-site inspections of licensed premises. Investigators interview license applicants, checking financial, corporate, and any police records. They are required to visit newly-licensed establishments to assure the premises comply with applicable statutes and codes.

Licensed establishments are inspected both after complaints and on routine inspections. When apparent violations are found, a report is submitted to the Commission, a hearing is conducted and the matter is adjudicated. Investigators are required to prepare the evidence and prosecute their cases before the Commission. From time to time, the investigators carry out special orders of the Commission and assist other law enforcement agencies and local licensing authorities.

ADJUDICATORY PROCEEDINGS

Aggrieved parties have a right to appeal ABCC decisions to Superior Court under the Administrative Procedures Act (MGL Chapter 30A). On appeal, the ABCC is represented by the Attorney General's Government Bureau. Some success has been achieved in expediting the appeal process in the courts, thus reducing the delay between a decision and of the Commission and its implementation. A total of 29 Commission decisions were appealed to Superior Court last year. Approximately 90% of appealed cases are ultimately resolved on terms favorable to the Commission.

HEARINGS

During Fiscal Year 1992, the Commission heard 374 cases in its adjudicatory hearings. (See Statistical analysis). Hearings are open to the public and written decisions are rendered. Decisions are kept on file with the Agency and with the Social Law Library at Suffolk County Courthouse in Boston. They are also reported in the Massachusetts Beverage Price Journal and other publications distributed to licensees.

PUBLIC POLICY

In carrying out its responsibilities, an important function of the ABCC is identifying and implementing policies which protect the safety and interests of consumers and the general public and stabilize the liquor industry in Massachusetts.

The ABCC and its staff have developed and maintained a close working relationship with other governmental units, including the Executive Office of Public Safety, the Registry of Motor Vehicles, Governor's Highway Safety Committee, Department of Revenue, the Attorney General's Office and other law enforcement and administrative agencies. The ABCC advises the Executive and Legislative Branches on matters relating to the liquor industry. The Commission participates in seminars and conferences to bring problems connected with the use and abuse of alcohol to the attention of licensed establishments, their employees and the general public.

The Commission has undertaken a program to invigorate the local licensing authorities by encouraging cities and towns to address their responsibilities in administering and enforcing the liquor laws.

NEW DEVELOPMENTS

A measure affecting Sunday package store openings was signed into law and regulations concerning special licenses and ships were promulgated by the Commission.

The legislature extended year-round Sunday openings to include package stores within 10 miles of the New Hampshire border that are located in Franklin County. The law (Chapter 378 of the Acts of 1991) requires approval of the local licensing authority, stores may not open before noon and must close no later than 11 p.m. (11:30 p.m. on December 24 and December 31 if the holidays fall on a Monday), employees must be paid at a rate of not less than one and one half times the employee's regular rate and no employee shall be required to work on Sundays. Package stores located in cities and towns within 10 miles of the New Hampshire border in Essex, Middlesex and Worcester Counties are allowed the same year-round Sunday opening privileges through previously-passed laws.

The Commission promulgated a series of "Special License" regulations that require the local licensing authorities to notify the Commission of such approval in writing. The Commission may investigate the granting of any special license and the conduct of the business being done thereunder, and may, after conducting a public hearing, modify, suspend, revoke or cancel such license if, in its opinion, circumstances warrant.

The new ship regulation allows duly-licensed ships to serve alcoholic beverages on the ship itself at dockside 15 minutes prior to and 15 minutes after the posted scheduled sailing time.

STATISTICAL ANALYSIS OF HEARINGS

	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>
Appeals	112	110	106	126	136
Protests	5	8	9	9	7
Reappeals/Reconsideration	5	1	2	1	1
Violations	253	298	451	171	180
Investigatory Hearings	5	3	15	29	18
Remands from Superior Court	4	3	0	3	2
Disputed Liquor Bills	1	1	5	2	5
Tax Protests	6	0	0	0	0
Public Regulatory Hearings	1	3	0	1	3
M.G.L. Ch. 138, Sec. 25E Cases	16	9	3	8	4
Pre-Trial Conferences	21	15	18	15	18
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TOTALS:	429	451	609	365	374

TAX REVENUES

Since 1976, the ABCC has cooperated with the Massachusetts Department of Revenue in assisting in the collection of overdue taxes from licensees who attempt to transfer their licenses or interest in their businesses. Prior to approving such transfers, the Commission requires proof of tax compliance. The tax dollars collected under this program for the last five years are as follows:

Period Ending:

June 30, 1988.....	\$1,442,560.16
June 30, 1989.....	\$1,242,202.66
June 30, 1990.....	\$ 755,988.18
June 30, 1991.....	\$1,058,828.51
June 30, 1992.....	\$ 897,408.00
TOTAL:	\$5,396,987.51

FINES

Under the provisions of M.G.L. c 138, s23, when the ABCC suspends a license, the Commissioners at their discretion, may accept a fine in lieu of such suspension. The monies thus collected by the Commission are paid directly to the Treasurer and Receiver General.

The amount for the last five years is as follows:

Period Ending:

June 30, 1988.....	\$282,427.97
June 30, 1989.....	\$148,642.00
June 30, 1990.....	\$248,830.00
June 30, 1991.....	\$119,012.00
June 30, 1992.....	\$ 78,407.00
TOTAL:	\$877,318.97

FINANCIAL STATEMENT

Fiscal Year--July 1, 1991 Ending June 30, 1992

	Number of Permits Licenses/Fees Issued	Amount
Fines in Lieu of Suspension	N/A	\$78,407
Manufacturer's License--Wineries	18	714
Manufacturer's License--Breweries	2	9,000
Wholesaler's & Importer's All-Alcoholic	49	294,000
Wholesaler's & Importer's Wines & Malt	44	132,000
Wholesaler's & Importer's Sacramental	4	9,000
Certificate of Compliance (\$500)	275	137,500
Certificate of Compliance (\$100)	861	86,100
Special Permits	103	2,301
Commercial Alcohol License	3	1,500
Agents, Brokers & Solicitors	74	148,000
Filing Fees	2,281	114,050
Storage Permit (Warehouseman)	103	2,301
Storage Permit (Annual)	3	18,000
Storage Permit (Bonded Warehouse)	74	148,000
Salesmen's Permit	1,841	92,050
Transportation Permit--Licensee	3,356	100,680
Transportation Permit--Railroad	0	0
Transportation Permit--Airline	1	300
Transportation Permit--Steamship	0	0
Railroad License--Master	3	600
Railroad License	56	1,400
Airline License--Master	12	4,200
Airline License	505	12,625
Steamship License	96	28,800
Express Master	178	8,900
Express Permit	2,421	72,630
Ship Chandler's License	5	2,500
Miscellaneous Income	N/A	8,578
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	12,221	\$1,366,835*

*This amount was transferred into the General Fund of the Commonwealth.

STATEMENT OF APPROPRIATIONS AND EXPENDITURES

APPROPRIATIONS:

Personnel Services	\$894,203
Expenses	113,403
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TOTAL:	\$ 780,800

EXPENDITURES:

Personnel Services	\$893,171
Expenses	113,403
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TOTAL:	\$ 779,768

BALANCE UNEXPENDED:

Returned to Treasurer and Receiver General:	\$1,032
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